



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
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DALLAS, TX 75202-2733

April 1, 1997

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Ms. Leslie C. Nellermeoe
Heller Ehrman White & McAuliffe
6100 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104-7098

RE: Tar Creek Superfund Site, Ottawa County, Oklahoma; your
March 17, 1997 letter

Dear Ms. Nellermeoe:

This is in response to your March 17, 1997, letter to Regional Administrator Jane N. Saginaw, regarding our February 20, 1997, meeting which concerned developments at the Tar Creek Superfund Site (the "Site") located in Ottawa County, Oklahoma. In your letter on behalf of Asarco, Inc., Blue Tee Corporation, Childress Royalty Company, The Doe Run Resources Corporation, and Gold Fields Mining Corporation (the "Companies"), you clarified two requests which you made in our meeting. You indicated that the intention of your requests was to protect the integrity of Community Health Action and Monitoring Program (CHAMP) which the Companies initiated, and are conducting at the Site.

First, you requested that the U.S. Environmental Protection Agency (EPA) delay its removal actions at the 40 CHAMP study homes until at least July 1, 1997. As we have indicated to you in the past, while we encourage you to supplement our activities to address threats to the children's health on the Site by implementing the CHAMP, especially the educational and intervention-related portions, we cannot delay the planned removal and remedial action at the Site (see e.g., Superfund Division Director Myron O. Knudson's March 21, 1996, letter to Asarco Inc.'s Mr. Donald Robbins at page 2). Nonetheless, it is logistically impossible for us to clean up all of the contaminated residential yards on the Site simultaneously, which means that it is possible for EPA to prioritize the cleanups. Furthermore, we believe that, in the short term, due to the education and intervention provided by the CHAMP, the children in the homes which are being addressed by the CHAMP should generally be at less risk than the children who live in other similarly contaminated areas, so it makes sense to address other contaminated residential yards first. Consequently, we may schedule the removal and remedial action at the CHAMP homes so that they are addressed last, but we will not delay the overall

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response action. In addition to risk and logistical considerations, however, you have indicated that yard soil removal in the CHAMP study area could adversely effect the validity of the conclusions which may be drawn from the data you are gathering under the CHAMP. As we have said before, EPA does not believe that more data is needed to determine whether the Site requires remediation under Superfund (see e.g., the letter to Mr. Robbins at page 1), nor do we believe that more data is needed to select an appropriate remedy for the Site; however, we would be pleased to accommodate your data collection with adjustments in the scheduling of our response action at individual CHAMP study homes, as long as the overall response is not delayed.

In any event, as was stated in my February 25, 1997, letter to you, in order for EPA to accommodate the completion of the CHAMP, we need a complete list of the residences which are taking part in the CHAMP, and you have not yet provided us with such a list. Finally, as I said in my letter, although you indicated that you had parental consent for the CHAMP, if a parent asks for soil removal at a yard of a CHAMP study home, EPA will not wait, but will include that home in its regular response action schedule for homes in the area in question.

Second, you requested that EPA consider the results of the CHAMP in its decision-making regarding the appropriate remedial actions for the residential areas of the Site. You also requested that EPA reconsider Mr. Knudson's decision not to delay issuance of the Record of Decision (ROD) pending the results of the CHAMP. As we have discussed with the Companies, EPA already has sufficient information for decision making with regard to the residential areas of the Site. However, EPA will certainly consider any comments you submit under the appropriate National Contingency Plan standard (see e.g., 40 CFR §§ 300.815, and 300.825(c)). Comments submitted during the comment period (March 17, 1997 to April 16, 1997) for the proposed plan of action for the residential areas will be evaluated and considered in the preparation of the final ROD. The issuance of the ROD will not be delayed for evaluation and consideration of late comments.

In your letter you also said that "[t]he inherent danger in EPA's approach is that despite EPA's massive soil removal program, elevated blood lead levels may remain [in children living on the Site]." EPA's extensive risk evaluations indicate that, in most cases, lead-contaminated soil on the Site is expected to be the primary source of elevated blood lead levels in children living on the Site. Moreover, according to EPA's risk evaluations, soil lead alone, without consideration of any other lead sources such as paint, poses a dangerous and unacceptable health risk to the Site residents, especially children. That is, the lead-contaminated soil on the Site is such a health risk that it must be addressed no matter what other

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sources of lead are discovered by the CHAMP or any other study. With this said, EPA does agree that in any given home there may be other significant sources of lead. Nonetheless, since the potential for children to be directly exposed to lead-contaminated soil presents an unacceptably high health risk, delaying the soil cleanup while other sources of lead are further investigated makes no sense. The soil cleanup poses no "inherent" danger, and, in fact, eliminates the most likely source of elevated blood lead concentrations for children on the Site.

In your letter you also say that

[a]ccording to CDC [Centers for Disease Control] Guidelines stated in "Preventing Lead Poisoning in Young Children"..., children with blood lead levels under 20 $\mu\text{g}/\text{dl}$ should receive, at most, nutritional and educational interventions and more frequent screenings. This has been done as part of the CHAMP program.

We disagree with your characterization of the CDC guidelines. Specifically, you have neglected to mention that the CDC recommends that, in a situation such as the situation which exists at the Site where many children in the community have blood lead levels greater than or equal to 10 $\mu\text{g}/\text{dl}$, community-wide primary prevention activities are appropriate (see CDC's Preventing Lead Poisoning in Young Children (October 1991) (hereinafter CDC Statement) at 46). The CDC Statement goes on to say that primary prevention efforts must be designed to systematically identify and remediate environmental sources of lead (see CDC Statement at 75). In that EPA has identified lead-contaminated soil as the primary health risk at the Site, EPA's actions to clean up lead-contaminated soil are perfectly consistent with the CDC Statement (see CDC Statement at 75 and 80). If I may be of further assistance, please contact me at (214) 665-8045.

Sincerely yours,



James E. Costello
Senior Attorney (6SF-DL)